

Fundamentals Level – Skills Module

# Corporate and Business Law (English)

Tuesday 2 June 2009

**Time allowed**

Reading and planning: 15 minutes

Writing: 3 hours

ALL TEN questions are compulsory and MUST be attempted.

**Do NOT open this paper until instructed by the supervisor.**

**During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.**

**This question paper must not be removed from the examination hall.**

The Association of Chartered Certified Accountants

# Paper F4 (ENG)

The ACCA logo consists of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black rectangular background.

ALL 10 questions are compulsory and MUST be attempted

- 1 Explain and distinguish between the following terms in relation to the doctrine of precedent in the English legal system:
- (a) *ratio decidendi* and *obiter dictum*; (4 marks)
  - (b) *binding precedent* and *persuasive precedent*. (6 marks)
- (10 marks)**
- 2 (a) In relation to the law of contract, define and explain consideration. (3 marks)
- (b) Explain the following statements regarding consideration:
- (i) consideration must be sufficient but does not have to be adequate; (3 marks)
  - (ii) past consideration is not good consideration. (4 marks)
- (10 marks)**
- 3 In relation to the law of contract, distinguish between and explain the effect of:
- (a) a term and a mere representation; (3 marks)
  - (b) express and implied terms, paying particular regard to the circumstances under which terms may be implied in contracts. (7 marks)
- (10 marks)**
- 4 In relation to company law, explain:
- (a) the limitations on the use of company names; (4 marks)
  - (b) the tort of 'passing off'; (4 marks)
  - (c) the role of the company names adjudicators under the Companies Act 2006. (2 marks)
- (10 marks)**
- 5 In relation to company law, explain:
- (a) the doctrine of capital maintenance; (4 marks)
  - (b) the circumstances under which both a private and a public company can reduce its capital and the procedure to be followed. (6 marks)
- (10 marks)**
- 6 Explain the grounds upon which a person may be disqualified under the Company Directors Disqualification Act 1986.
- (10 marks)**

**7 In relation to employment law, explain the meaning of redundancy and the rules that govern it.**

**(10 marks)**

**8** In January 2008 Arti entered in a contractual agreement with Bee Ltd to write a study manual for an international accountancy body's award. The manual was to cover the period from September 2008 till June 2009, and it was a term of the contract that the text be supplied by 30 June 2008 so that it could be printed in time for September. By 30 May, Arti had not yet started on the text and indeed he had written to Bee Ltd stating that he was too busy to write the text.

Bee Ltd was extremely perturbed by the news, especially as it had acquired the contract to supply all of the accountancy body's study manuals and had already incurred extensive preliminary expenses in relation to the publication of the new manual.

**Required:**

**In the context of the law of contract, advise Bee Ltd whether they can take any action against Arti.**

**(10 marks)**

**9** Clean Ltd was established some five years ago to manufacture industrial solvents and cleaning solutions, and Des was appointed managing director.

The company's main contract was with Dank plc a large industrial conglomerate.

In the course of its research activity, Clean Ltd's scientists developed a new super glue. Des was very keen to pursue the manufacture of the glue but the board of directors overruled him and decided that the company should stick to its core business.

The managing director of Dank plc is a friend of Des's and has told him that Dank plc will not be renewing its contract with Clean Ltd as he is not happy with its performance. He also told Des that he would be happy to continue to deal with him, if only he was not linked to Clean Ltd.

Following that discussion Des resigned from his position as managing director of Clean Ltd and set up his own company, Flush Ltd which later entered into a contract with Dank plc to replace Clean Ltd. Flush Ltd also manufactures the new glue discovered by Clean Ltd's scientists, which has proved to be very profitable.

**Required:**

**In the context of company law, advise the board of Clean Ltd as to whether they can take any action against Des or Flush Ltd.**

**(10 marks)**

**10** Greg is a member of the board of directors of Huge plc. He also controls a private limited company Imp Ltd through which he operates a management consultancy business. He also owns all the shares in Jet Ltd through which he conducts an investment business.

When Greg learns that Huge plc is going to make a take-over bid for Kop plc he arranges for Jet Ltd to buy a large number of shares in Kop plc on the London Stock Exchange on which it makes a large profit when it sells them after the takeover bid is announced. He then arranges for Jet Ltd to transfer the profit to Imp Ltd as the charge for supposed consultancy work. The money is then transferred to Greg through the declaration of dividends by Imp Ltd.

**Required:**

**Analyse the above conduct from the perspective of criminal law paying particular attention to the issues of:**

**(a) insider dealing; and** (5 marks)

**(b) money laundering.** (5 marks)

**(10 marks)**

**End of Question Paper**